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3 UNITED STATES DISTRICT COURT
4 WESTERN DISTRICT OF WASHINGTON
5 AT SEATTLE

6 In re:

7 DEMETRIUS BERTRAND DICKERSON,
8 SR.,

9 Debtor.

10 DEMETRIUS BERTRAND DICKERSON,
11 SR.,

12 Appellant,

13 v.

14 MERCHANTS CREDIT CORPORATION,

Appellee.

C19-143 TSZ

ORDER

15 THIS MATTER comes before the Court on an appeal from the United States
16 Bankruptcy Court for the Western District of Washington (the “Bankruptcy Court”). For
17 the reasons stated in this order, the Court AFFIRMS in part and REVERSES in part the
18 Bankruptcy Court’s ruling.

19 **Background**

20 This case arises out of a motion for sanctions filed by Demetrius Bertrand
21 Dickerson, Sr. (the “Debtor”) against Merchants Credit Corporation (“Merchants”) for a
22 discharge violation. The Debtor asserts Merchants violated the discharge injunction
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1 issued under 11 U.S.C. § 524(a)(3) by garnishing the wages of his non-debtor spouse.

2 After a hearing, the Bankruptcy Court entered detailed Findings of Fact and Conclusions
3 of Law (ER 0286-0298) and concluded that civil contempt sanctions were not appropriate
4 under either 11 U.S.C. § 105 or the Court's inherent power. The Debtor does not
5 challenge the Bankruptcy Court's Findings of Fact. Rather, the Debtor challenges the
6 legal conclusions reached by the Bankruptcy Court based on the Findings of Fact.

7 **Discussion**

8 A. Section 105 Standard under *Taggart*

9 The Bankruptcy Court concluded that “to prove a sanctionable violation of the
10 discharge injunction, the Debtor must show by clear and convincing evidence that
11 Merchants lacked a good faith belief that the discharge injunction applied to its claim,
12 even if such belief was unreasonable.” ER 0295. The Bankruptcy Court's conclusion
13 was based on then existing Ninth Circuit precedent in *Lorenzen v. Taggart (In re*
14 *Taggart)*, 888 F.3d 438 (9th Cir. 2018), which held that “good faith,” even if
15 unreasonable, would insulate a creditor from a finding of contempt. Subsequent to the
16 Bankruptcy Court's ruling, the United States Supreme Court reversed the Ninth Circuit,
17 overturned the “good faith” standard, and clarified that “a court may hold a creditor in
18 civil contempt for violating a discharge order if there is *no fair ground of doubt* as to
19 whether the order barred the creditor's conduct.” *Taggart v. Lorenzen*, 139 S. Ct. 1795,
20 1799 (2019) (emphasis in original). In other words, civil contempt may be appropriate
21 “if there is no objectively reasonable basis for concluding that the creditor's conduct
22 might be lawful.” *Id.*

1 The Court concludes that in light of the new standard for judging violations of
2 11 U.S.C. § 524, the Bankruptcy Court's Conclusions of Law based on the good faith
3 standard was error. The Court reverses that ruling and the case is remanded to the
4 Bankruptcy Court to apply the correct legal standard to the facts of this case. In the event
5 the Bankruptcy Court concludes sanctions are appropriate, it should determine the
6 amount of sanctions appropriate under the circumstances.

7 B. Inherent Authority Sanctions

8 Inherent authority sanctions are only appropriate upon specific findings of bad
9 faith or willful misconduct. *Knupfer v. Lindblade (In re Dyer)*, 322 F.3d 1178, 1196 (9th
10 Cir. 2003). The Bankruptcy Court indicated that it was "not able to make a specific
11 finding of bad faith or willful misconduct." ER 0297. The Bankruptcy Court applied the
12 correct standard of bad faith or willful misconduct, and its findings are entitled to "great
13 deference." *See Evon v. Law Offices of Sidney Mickell*, 688 F.3d 1015, 1035 (9th Cir.
14 2012). Based on the findings of fact of the Bankruptcy Court and its application of the
15 proper standard, the Court AFFIRMS the Bankruptcy Court's legal conclusion that
16 sanctions were not appropriate under its inherent authority.

17 Conclusion

18 For the foregoing reasons, the Court enters this ORDER:

19 (1) The decision of the Bankruptcy Court is REVERSED in part and this
20 matter is REMANDED to the Bankruptcy Court to determine whether sanctions are
21 appropriate under the "no fair ground of doubt" standard announced in the *Taggart*
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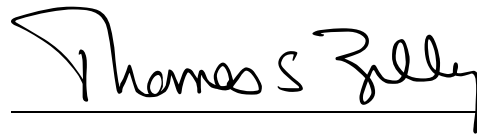
1 decision and, if so, what amount of sanctions, if any, should be assessed under all the
2 circumstances.

3 (2) The Bankruptcy Court's decision is AFFIRMED in part with respect to its
4 refusal to award sanctions under its inherent authority.

5 (3) The Clerk is directed to enter judgment consistent with this Order and to
6 send a copy of this Order and the Judgment to all counsel of record and to the
7 Honorable Marc Barreca.

8 IT IS SO ORDERED.

9 Dated this 11th day of October, 2019.

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12 Thomas S. Zilly
13 United States District Judge
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